

Proposed 2004 legislation affecting PERSI

PERSI has three pieces of proposed legislation for the upcoming 2004 session. As of yet, we have not heard of any legislation forthcoming from other sources that would affect PERSI. If any arise, we will keep you informed. As always, we have a link to our legislative page on our website's homepage at www.persi.state.id.us. We make regular updates to this page during the legislative session.

Death Benefit Waiver

Currently, Idaho Code 59-1361(4) permits the designated beneficiary of a PERSI death benefit to waive the benefit and have it paid to the member's surviving spouse. At times, a beneficiary may wish to waive the death benefit when there is no surviving spouse. Or, a beneficiary who is a surviving spouse sometimes wants to waive the benefit and have it paid to the member's heirs through the estate. Because of the limiting language in section 59-1361, in such situations the beneficiary has been required to formally renunciate the benefit. This is burdensome because it requires filing court documents and generally requires the services of an attorney.

This bill amends section 59-1361(4), Idaho Code, to permit designated beneficiaries to simply waive their death benefit for whatever reason. This will allow beneficiaries to more easily make the benefit available to other family members. The beneficiary would only be required to

sign a notarized waiver form rather than having to file court documents. If a beneficiary waives a benefit under the amended law, the benefit would be paid as if the beneficiary had predeceased the member – the same way it is currently paid under the renunciation statute. If the beneficiary waives their right and there is a surviving spouse, the spouse will be the first to receive the benefit. If there is no surviving spouse, the benefit will be paid to the member's estate.

FRF COLA

The Firefighter's Retirement Fund (FRF) statutes require that PERSI annually calculate the "Statewide Firefighter Average Salary" which is used for the calculation of the FRF retiree COLA (Idaho Code 72-1471) and for setting Option I firefighter contributions (Idaho Code 72-1434(1)). Idaho Code 72-1432 provides that the Average Salary is calculated from wages paid to "paid firefighters" from September 1 to August 31 of the following year. This has become increasingly difficult because PERSI's new data system and procedures now require that employers report on a pay period basis (not monthly when paid). Additionally, one month is not adequate time to process all the information and get the new contribution rates back to employers in a timely fashion.

This bill amends section 72-1431 and

72-1432, Idaho Code. First, it converts the compensation component to salary **earned** in a particular pay period rather than salary **paid** in a month. Second, it changes the measurement period to July 1 through June 30 (rather than September 1 through August 31), to match the state fiscal year and to provide additional time for employers to change their payroll deductions. These changes will have no impact on the FRF members and will be administratively easier for employers and PERSI.

ORP Eligibility

This bill deals with an eligibility issue created by the interplay between PERSI and the Optional Retirement Plans (ORPs) of universities. Because of the way "employee" is defined in Idaho Code 59-1302(14), it is possible for ORP covered employment to be counted toward PERSI eligibility in cases of dual employment. This means that a person could be eligible for PERSI with one employer even if they work less than 20 hours for that employer. This creates administrative problems because there is no practical way for that employer to track hours with the ORP covered employer.

This bill would amend section 59-1302(14) to clarify that ORP covered employment cannot be considered in reaching eligibility requirements for PERSI covered employment.

Dispatchers are General Members (Rule of 90)

FOR COUNTY DETENTION SYSTEMS ONLY

Dispatchers (also known as Communications Specialists) have a very difficult job. Many Dispatchers not only handle the communications systems for the counties but they may also deal with prisoners which may put the Dispatcher in personal danger. This mixture of job duties has led to some confusion on whether to classify the job as Police Officer (Rule of 80) or General Member (Rule of 90).

Idaho Code 59-1303(b)(ii) states in part: "Deputy County Sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service . . ." are Police Officer members. This is the section of law that PERSI uses to determine if Dispatch and Jailor employees can be certified as Class 2 – Police Officer status.

In the past, based on information supplied by employers, PERSI has occasionally classified some Dispatchers as Police Officers due to their prisoner contact. However, based on PERSI and POST statutes, we can no longer classify any Dispatchers as a Police Officers even if their position requires them to perform occasional Jailor (County Detention Officer) duties.

There are several reasons for this effort to maintain consistency across the counties and within the Police Officer membership criteria.

(1) Dispatchers are not required to be POST certified; they may attend a voluntary POST class for Communications Specialists. (2) County Detention Officers (Jailors) do qualify for Police Officer status, are required to attend POST, and must be employed in full-time County Detention Officer positions according to POST rules. This requirement for full-time employment as a Detention Officer precludes a Dispatcher from having principal duties related to Jailor activities. (3) Dispatchers do not perform "active law enforcement service" which is defined in PERSI rules as: "... means the "primary duties of an employee's position requires the employee to investigate and arrest persons for criminal or suspected criminal violations or designate the employee to be responsible for the safekeeping and custody of persons held in a duly constituted confinement facility."

PERSI will be doing a study of all county Jailor and Dispatcher positions to determine if they are properly classified. We are revising our procedures to ensure Jailor positions are identified clearly in the employer certification process. Any Dispatcher who is currently classified as a Class 2 – Police Officer status – will be reclassified to Class 4 status, which is a "grandfathered" status. What does this mean? Based on Idaho Code 59-1303(7) any active member who has been classified as a Police Officer whose position is reclassified to that of a General

Member as a result of our determination that the position does not meet the requirements for Police Officer status will not lose their Rule of 80 (or age 60 service retirement), will be changed to General Member status and will contribute at the General Member rate. The final benefit under a Class 4 grandfathered status will be calculated with the "mixed" formula based on the number of months of Class 2 and General Member service. However, the employee must continue to be employed in the SAME POSITION until they retire to maintain their rights to the early retirement Rule of 80 or age 60 service retirement.

PERSI's Member Services Representatives have already started reviewing all Dispatcher and Jailor positions. If you have any Dispatchers in Class 2 status, please contact your representative in Coeur d'Alene, Boise or Pocatello. Also, depending on your software used for PERSI transmittal reporting, be sure your system can utilize the Class 4 status. Computer Arts has already instituted the Class 4 status in their software.

If you have any questions concerning this change, please call or e-mail:

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